

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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COURCHEVEL 1850 LLC,

Plaintiff,

-against-

**ORDER**  
16 CV 6803 (RRM) (CLP)

RANDOLPH DONALDSON *et al.*,

Defendants.

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**POLLAK**, United States Magistrate Judge:

On December 9, 2016, plaintiff Courchevel 1850 LLC (“Courchevel” or “plaintiff”) commenced this action, pursuant to the New York Real Property and Proceedings Law (“RPAPL”) § 1301, against defendants Randolph Donaldson, Yuhon Avezbaki, New York State Department of Taxation and Finance, Commissioner of Labor of the State of New York, Workers’ Compensation Board of New York State, New York City Environmental Control Board, New York City Parking Violations Bureau, and Willoughby 2014 Realty Corp., seeking to foreclose on a mortgage made by defendant Donaldson on property located at 787 Willoughby Avenue, Brooklyn, New York (the “Property”).

Currently pending before this Court is plaintiff’s motion to appoint a referee to effectuate the foreclosure and sale of the Property in accordance with the district court’s Order of November 1, 2018. For the reasons set forth below, the Court grants plaintiff’s request.

**FACTUAL BACKGROUND**

The facts underlying this matter are set forth in this Court’s February 1, 2018 Report and Recommendation, and are incorporated by reference herein. Relevant facts are repeated where necessary for the Court’s analysis.

Plaintiff Courcheval alleges that on June 30, 2006, defendant Donaldson executed a Note to Mortgage Lenders Network USA, Inc. (“Mortgage Lenders”), whereby Donaldson received a loan in the sum of \$139,800.00, secured by a mortgage on the Property. (Compl.<sup>1</sup> ¶ 30, Ex. B). Through a series of assignments described in the Complaint, Courcheval became the owner and holder of the Note and Mortgage on the Property. (Id. ¶ 32).

When Donaldson failed to make the August 1, 2010 installment payment due on the Mortgage, and continued to fail to pay up until December 9, 2016, the date the Complaint was filed, plaintiff commenced this action seeking to foreclose on the Mortgage. (Id. ¶ 40). When defendants failed to respond to the Complaint, the Clerk of the Court entered a default on February 22, 2017, and thereafter, plaintiff filed for default judgment and damages due as a result of Donaldson’s default on the loan. (See Clerk’s Entry of Default, Feb. 22, 2017, ECF No. 22; see generally Pl.’s Motion for Default Judgment of Foreclosure and Sale, Mar. 20, 2017, ECF No. 23).

After reviewing the papers received from plaintiff and having received no submissions from any of the defendants, this Court issued a Report on February 1, 2018, recommending that plaintiff’s motion for default judgment be granted, that plaintiff’s motion for judgment of foreclosure and sale also be granted, and that plaintiff be awarded costs. (See generally R&R).<sup>2</sup> The Court also recommended that a referee be appointed to effectuate the foreclosure and sale of the Property. (R&R at 16). On November 1, 2018, the Honorable Roslynn R. Mauskopf, United States District Judge, adopted the Report and Recommendation in full.

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<sup>1</sup> Citations to “Compl.” refer to plaintiff’s Complaint filed on December 9, 2016.

<sup>2</sup> Citations to “R&R” refer to this Court’s Report and Recommendation, dated February 1, 2018, ECF No. 27.

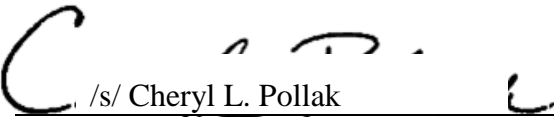
Thereafter, on November 5, 2018, plaintiff filed a motion to appoint its designated referee, James M. Caffrey, Esq., as the referee to effectuate the sale. (11/5/18 Mot.).<sup>3</sup> The motion has now been referred to the undersigned. The appointment of a referee to effectuate the sale is common practice under New York Real Property Actions and Proceedings Law. See, e.g., OneWest Bank, N.A. v. Hawkins, No. 14 CV 4656, 2015 WL 5706945 (E.D.N.Y. Sep. 2, 2015).

Having reviewed plaintiff's submissions and based upon the court's earlier Order adopting this Court's recommendation that a referee be appointed to effectuate the sale, the Court hereby grants plaintiff's request and appoints James M. Caffrey, Esq., as referee to effectuate the judgment of foreclosure and sale.

The Clerk is directed to send copies of this Order to the parties either electronically through the Electronic Case Filing (ECF) system or by mail.

**SO ORDERED.**

Dated: Brooklyn, New York  
August 21, 2019

  
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/s/ Cheryl L. Pollak  
Cheryl L. Pollak  
United States Magistrate Judge  
Eastern District of New York

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<sup>3</sup> Citations to "11/5/18 Mot." refer to plaintiff's motion, filed on November 5, 2018, ECF No. 32.